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<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203.</p>	<p>FILED SUPREME COURT JUN 11 2008 OF THE STATE OF COLORADO SUSAN J. FESTAG, CLERK</p>
<p>ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007) Appeal from the Ballot Title Board</p>	<p>▲ COURT USE ONLY ▲</p>
<p>IN THE MATTER OF THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE, AND SUMMARY FOR 2007-2008, #103 ("COLORADO HOUSING INVESTMENT FUND"), ROBERT GOLDEN, OBJECTOR</p> <p>Petitioner,</p> <p>v.</p> <p>NEDRA SAN FILLIPPO AND KENNETH HOAGLAND, PROPONENTS; AND WILLIAM HOBBS, SHARON EUBANKS AND DANIEL DOMENICO, TITLE BOARD,</p> <p>RESPONDENTS.</p>	<p>Case No.: 08SA193</p>
<p>JOHN W. SUTHERS, Attorney General MAURICE G. KNAIZER, Deputy Attorney General* 1525 Sherman Street, 7th Floor Denver, CO 80203 (303) 866-5380 Registration Number: 05264 *Counsel of Record</p>	
<p>OPENING BRIEF OF THE TITLE BOARD</p>	

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William A. Hobbs, Sharon Eubanks and Daniel Domenico, as members of the Title Board (“Board”) hereby submit their Opening Brief.

STATEMENT OF THE ISSUES

The Board adopts the statement of issues set forth in the Objector’s Petition for Review.

STATEMENT OF THE CASE

On May 9, 2008 the proponents filed Proposed Initiative #103 (#103) with the Secretary of State. The Board held a hearing to set the titles on May 21, 2008. The Board concluded that #103 had a single subject and set titles.

On May 28, 2008, Robert Golden, the Objector, filed a motion for rehearing. He alleged that #103 contains multiple subjects, that the titles are misleading, incomplete, confusing, and inaccurate and that the titles include catch phrases. On May 29, 2008, the Board granted the motion for rehearing in part and set the titles. Objector filed this appeal.

STATEMENT OF THE FACTS

#103 would add article XXX to the Colorado Constitution. It imposes a real estate transfer tax for the purpose of funding affordable housing programs. It creates a new fund entitled the Colorado Housing Investment Fund and allocates

the revenues from the transfer tax to the Fund. The money in the Fund must be used for grants and loans to support the creation and preservation of affordable housing stock through new construction, acquisition of real property, predevelopment, defraying costs of compliance with local ordinances, building rehabilitation, assistance with down payments and closing costs, energy efficiency improvements, accessibility modifications and construction, and foreclosure and homelessness prevention. The measure establishes an allocation formula for the money in the Fund.

SUMMARY OF THE ARGUMENT

#103 contains only one subject: imposing a real estate transfer tax to fund affordable housing programs for low-income persons. All provisions of the measure relate directly to this purpose.

The titles set by the Board are fair, clear and accurate. Although the titles do not describe all of the details of the proposed measure, they do recite its central features.

The phrases “affordable housing” and “affordable housing purposes” are not catch phrases.

ARGUMENT

I. #103 contains one subject: imposing a real estate transfer tax to fund affordable housing programs.

Objector contends that the Board should not have set titles because #103 contains more than one subject, thereby violating Colo. Const. art. V, § 1(5.5), which states:

No measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in the title; but if any subject shall be embraced in any measure which shall not be expressed in the title, such measure shall be void only as to so much thereof as shall not be so expressed. If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.

A proposed initiative violates the single subject rule if it “relate[s] to more than one subject and ... [has] at least two distinct and separate purposes which are not dependent upon or connected with each other.” *In re Title, Ballot Title and Submission Clause for Proposed Initiatives 2005-2006 #55*, 138 P.3d 273, 277 (Colo. 2002)(Colo. 2006) (#55) A proposed initiative that “tends to effect or to carry out one general objective or purpose presents only one subject.” *In re Ballot Title 1999-2000 #25*, 974 P.2d 458, 463 (Colo. 1999). The single subject rule both

prevents joinder of multiple subjects to secure the support of various factions and prevents voter fraud and surprise. #55, 138 P.3d at 277 *In re Title, Ballot Title and Submission Clause for Proposed Initiatives 2001-02* #43, 46 P.3d 438, 442 (Colo. 2002)(#43).

The Court will not address the merits of a proposed measure, interpret it or construe its future legal effects. #43, 46 P.3d at 443; *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000* #258(A), 4 P.3d 1094, 1097-98 (Colo. 2000). However, the Court may engage in a limited inquiry into the meaning of terms within a proposed measure if necessary to review an allegation that the measure violates the single subject rule. *In re Title, Ballot Title and Submission Clause for 2001-2002* #21 and #22, 44 P.3d 213, 216 (Colo. 2002). The single subject rule must be liberally construed to avoid unduly restricting the right of initiative. *In re Title, Ballot Title and Submission Clause, and Summary for 1997-98* No. 74, 962 P.2d 927, 929 (Colo. 1998). Sections of a measure that include “implementation or enforcement details directly tied to the single subject will not, in and of themselves, constitute a single subject.” *Title, Ballot Title and Submission Clause, and Summary for 2005-2006* #73, 135 P.3d 736, 739 (Colo. 2006).

Objector argues that the measure contains multiple subjects because it allocates revenues to purposes not necessarily connected with the tax increase or with each other. In particular, Objector asserts that the measure, in addition to providing affordable housing, provides funds for social programs, foreclosure prevention, and homelessness prevention. This contention is without merit.

#103 does authorize funding of social programs but these programs are directly related to the purpose of enhancing the ability of individuals to maintain a home. Objector's argument assumes that illness and joblessness are not tied to affordable housing. This argument flies in the face of reality. If a homeless person does not have a job or is severely ill, he likely will not be able to afford housing. Similarly, a person who is ill or is unemployed will likely not be able to keep and maintain a residence. Access to health care, job training, education and other social programs increase the likelihood that a person can get or keep a residence.

The Federal Government has recognized the close connection between employment, illness and housing. It enacted the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. § 11403 et seq. "The purpose of the program...is to provide rental housing assistance, in connection with supportive services...to homeless persons with disabilities (primarily person who are seriously mentally ill,

have chronic problems with alcohol, drugs, or but, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.” 42 U.S.C. 11403. The program links rental assistance to supportive services, 24 C.F.R. 582.1, including “health care, mental health treatment, alcohol and other substance abuse services, case management services, counseling, supervision, education job training, and other services essential for achieving and maintaining independent living.” 24 C.F.R. 582.5.

Courts afford legislatures significant discretion regarding the allocation of taxes. The Oklahoma Supreme Court determined that a measure that would authorize casinos, allow the state to collect gaming fees and distribute gaming fees for computer-related educational purposes, local governments and correctional facilities did not violate the single subject requirement. It concluded that taxability, distribution of gaming revenue and imposing of civil liability for debts incurred in gaming were related to the subject to the legalization and regulation of gaming. *In re Initiative Petition No. 363, State Question No. 672*, 927 P.2d 558 (Okla. 1996). *See also, Bonney v. Indiana Finance Authority*, 849 N.E.2d 473, 482 (Ind. 2006) (Provisions for raising taxes or revenues and directing their use are properly contained in the same bill.)

The California Supreme Court reached a similar conclusion in *Kennedy Wholesale, Inc. v. State Bd. Of Equalization*, 806 P.2d 1360 (Cal. 1991).

California voters passed a tax on tobacco for the primary purpose of reducing the economic costs of tobacco use in California. It directed the revenues garnered from the tax increase to programs in which smoking had caused an increase in government expenditures. Some of the revenues were allocated to programs that were not directly related to tobacco use. The Court concluded that the spending provisions, although not particularly precise, were sufficiently related to the purpose of alleviating state expenditures involving tobacco use. *Id.* at 1366.

In #103, all parts of the measure are related to its purpose. The taxes are imposed upon real estate transfers. The persons who buy and sell homes pay a tax designed to help others keep their homes. The proceeds are then used to obtain housing for individuals who are homeless or to prevent persons who have homes from losing them. In order to achieve this goal, #103 authorizes grants or loans to ensure that persons can remain in their homes.

Because all sections of the measure are related to its main subject, the Court must conclude that the measure meets the single subject requirement.

II. The titles are fair, clear and accurate.

Section 1-40-106(3), C.R.S. (2005) establishes the standard for setting titles.

It provides:

In setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general effect of a “yes” or “no” vote will be unclear. The title for the proposed law or constitutional amendment, which shall correctly and fairly state the true intent and meaning thereof, together with the ballot title and submission clause, shall be completed within two weeks after the first meeting of the title board...Ballot titles shall be brief, shall not conflict with those selected for any petition previously filed for the same election, and shall be in the form of a question which may be answered “yes” (to vote in favor of the proposed law or constitutional amendment) or “no” (to vote against the proposed law or constitutional amendment) and which shall unambiguously state the principle of the provision sought to be added, amended or repealed.

The titles must be fair, clear, accurate and complete. *In re Title, Ballot Title and Submission Clause and Summary for 1999-00 #256*, 12 P.3d 246, 256 (Colo. 2000) (#256). However, the Board is not required to set out every detail. #21, 44 P.3d at 222. In setting titles, the Board may not ascertain the measure’s efficacy, or its practical or legal effects. #256, 12 P.3d at 257; *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #246(e)*, 8 P.3d 1194, 1197

(Colo. 2000). The Court does not demand that the Board draft the best possible title. #256, at p. 219. The Court grants great deference to the Board in the exercise of its drafting authority. *Id.* The Court will reverse the Board’s decision only if the titles are insufficient, unfair or misleading.

Objector argues the titles are inadequate because they do not disclose that all of the funds “may be used to fund social programs”, “can be used to fund foreclosure and homeless prevention programs” or “can be used to fund large scale energy efficiency improvements. Objector is engaging in conjecture. However, even if the assertion is accurate, it is immaterial. Objector’s contention is based on the thesis that such programs and improvements are somehow different from housing. In this context, social programs or foreclosure and homeless prevention programs are subsets of the primary purpose of the measure: ensuring that people can afford residences.¹ Thus, there is no need to specifically mention these programs in the titles.

Objector also contends the titles do not accurately reflect the calculation of the tax. The measure states, if consideration exceeds \$500, the “a real estate transfer tax shall be imposed at the rate of four cents for each one hundred dollars,

¹ The cost of energy may force persons to move because they can no longer afford to heat their homes.

or major fraction thereof, of consideration paid for the real property.” The titles closely paraphrase the language of the measure. They state that the measure will impose a “transfer tax at the rate of four cents for each \$100 paid in certain real property transactions” and will place a cap of \$321 million to be collected annually. The tax rate and the total amount of taxes expected to be collected are the key components. A discussion of the remaining parts of the formula will not assist or advance the reader’s understanding of the measure.

Objector also contends that the titles should have disclosed that loans may be issued from the Fund. Objector argues that the option to make loans should have been disclosed because “such lending is typically a high risk venture.” However, Objector did not offer any evidence to substantiate the argument. In any case, not all loans are high risk loans. The risk is dependent upon the terms of the loans, including the amount of the loan and collateral or security. Because these factors are not discussed in the measure and are unknown, the Board properly rejected the argument.

III. The measure does not include catch phrases.

The Objectors contend that the terms “affordable housing” and “affordable housing purposes” are catch phrases. The Court must reject this argument.

“Catch phrases are words that work to a proposal’s favor without contributing to voter understanding. By drawing attention to themselves and triggering a favorable response, catch phrases generate support for a proposal that hinges not on the content of the proposal itself, but merely on the wording of the catch phrase.” *In re Title, Ballot Title 1999-2000 No. 258(A)*, 4 P.3d 1094, 1100 (Colo. 2000). The Court will determine whether a term will “provoke political emotion and impede voter understanding, as apposed to those which are merely descriptive of the proposal.” *Id.* The existence of a catch phrase must be determined in the context of contemporary political debate. *In re Title, Ballot Title and Submission Clause, and Summary for 1997-1998 #105*, 961 P.2d 1092, 1100 (Colo. 1998). An objector must provide sufficient evidence to prove that a word or group of words constitutes a catch phrase. *Id.*

The court has concluded that similar phrases are not catch phrases. #256, 12 P.3d at 257 (“management of growth” a neutral phrase) *In re Title, Ballot Title and Submission Clause, and Summary for 1997-98 #112*, 962 P.2d 255 (Colo. 1998) (“protect the environment and human health” not a catch phrase); *In re Proposed Initiative 1996-6*, 917 P.2d 1277, 1281 (Colo. 1996) (“public’s interest in state waters” not a catch phrase)

The phrases “affordable housing” and “affordable housing purpose” are operative language within the measure. The phrases are generally used to describe housing available to persons of limited means. For example, the statute establishing Affordable Housing Dwelling Unit Advisory Boards defines “affordable housing dwelling unit” as “a residential structure that is purchased or rented by and is occupied as a primary residence by one or more income eligible households, or a comparable definition as established by a local government that is consistent with the purposes of this article.” Section 29-26-102(1), C.R.S. (2007). Thus, the terms are purely objective descriptions.

Objector has not provided any evidence that the phrase will draw attention to itself and create a favorable response in today’s political climate. In light of the Court’s rulings in similar circumstances and the complete lack of any evidence showing that the words will trigger political debate, the Court must reject the argument.

CONCLUSION

For the reasons stated in this brief, the Court must affirm the Board’s action.

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Attorney General



MAURICE G. KNAIZER, 05264*

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **OPENING BRIEF OF THE TITLE BOARD** upon all parties herein by depositing copies of same, overnight by DHL at Denver, Colorado, this 11th day of June 2008 addressed as follows:

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A handwritten signature in cursive script, appearing to read "Blain Myhre", is written above a horizontal line.

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MAY 09 2008

FINAL

ELECTIONS
SECRETARY OF STATE

12:37pm
#103
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Be it Enacted by the People of the State of Colorado:

SECTION 1. The constitution of the state of Colorado is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE XXX
COLORADO HOUSING INVESTMENT FUND**

Section 1. Purpose and findings. AS SAFE, DECENT, ACCESSIBLE, AND AFFORDABLE HOUSING CREATES A FOUNDATION FOR FAMILY STABILITY, EDUCATIONAL ACHIEVEMENT, PERSONAL HEALTH, COMMUNITY SUSTAINABILITY, AND ECONOMIC DEVELOPMENT, IT IS THE INTENT OF THE VOTERS OF COLORADO TO ESTABLISH A HOUSING INVESTMENT FUND TO PROVIDE A DEDICATED, STATEWIDE SOURCE OF REVENUE TO SUPPORT THE CREATION AND PRESERVATION OF AFFORDABLE HOUSING OPPORTUNITIES FOR RESIDENTS OF THE STATE FROM VERY LOW-INCOME HOUSEHOLDS, LOW-INCOME HOUSEHOLDS, AND WORKFORCE HOUSEHOLDS, INCLUDING, BUT NOT LIMITED TO, PERSONS WITH SPECIAL NEEDS AND THE HOMELESS.

Section 2. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AFFORDABLE HOUSING" MEANS HOUSING WHERE TOTAL HOUSING COSTS, COMPRISED OF EITHER RENT, RENTER'S INSURANCE, AND UTILITIES OR MORTGAGE PAYMENTS, HOMEOWNER'S INSURANCE, PROPERTY TAXES, DUES TO A HOMEOWNERS' ASSOCIATION, LAND LEASE PAYMENTS, AND UTILITIES, REPRESENT NO MORE THAN THIRTY PERCENT OF GROSS HOUSEHOLD INCOME.

(2) "AFFORDABLE HOUSING STOCK" MEANS SAFE AND SANITARY SHELTERS, TRANSITIONAL HOUSING, PERMANENT SUPPORTIVE HOUSING, AFFORDABLE RENTAL OR AFFORDABLE OWNERSHIP UNITS, AND HOUSING FOR PEOPLE WITH SPECIAL NEEDS.

(3) "AREA MEDIAN INCOME" HAS THE SAME DEFINITION AS MAY BE PROMULGATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY SUCCESSOR AGENCY.

(4) "FUND ADMINISTRATOR" MEANS THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS OR ANY SUCCESSOR AGENCY.

(5) "HOUSEHOLD" MEANS ALL THE PERSONS WHO OCCUPY A HOUSING UNIT.

(6) "LOW-INCOME HOUSEHOLD" MEANS A HOUSEHOLD WHOSE INCOME IS AT OR BELOW EIGHTY PERCENT OF THE AREA MEDIAN INCOME OR SUCH OTHER DEFINITION AS MAY BE PROMULGATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY SUCCESSOR AGENCY.

(7) "VERY LOW-INCOME HOUSEHOLD" MEANS A HOUSEHOLD WHOSE INCOME IS AT OR BELOW FIFTY PERCENT OF THE AREA MEDIAN INCOME OR SUCH OTHER DEFINITION AS MAY BE

PROMULGATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY SUCCESSOR AGENCY.

(8) "WORKFORCE HOUSEHOLD" MEANS A HOUSEHOLD WITH AT LEAST ONE PRIMARY WAGE EARNER WORKING IN A COMMUNITY OR REGION WITH A DOCUMENTED SHORTAGE OF HOUSING THAT IS AFFORDABLE TO ITS WORKERS AND WHOSE HOUSEHOLD INCOME IS AT OR BELOW ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME.

Section 3. Colorado housing investment fund – creation – use and allocation of moneys from the fund. (1) TO PROVIDE AFFORDABLE HOUSING OPPORTUNITIES FOR RESIDENTS OF THE STATE FROM VERY LOW-INCOME HOUSEHOLDS, LOW-INCOME HOUSEHOLDS, AND WORKFORCE HOUSEHOLDS, THE COLORADO HOUSING INVESTMENT FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL BE ADMINISTERED BY THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS OR ANY SUCCESSOR AGENCY. THE FUND SHALL CONSIST OF ALL MONEYS TRANSFERRED INTO THE FUND PURSUANT TO SECTION (4) OF THIS ARTICLE AND ANY MONEYS RECEIVED FOR THE FUND FROM ANY OTHER PUBLIC OR PRIVATE SOURCE. ANY MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND.

(2) AFTER COSTS OF ADMINISTERING THE COLORADO HOUSING INVESTMENT FUND ARE DEDUCTED, MONEYS IN THE FUND SHALL BE USED FOR GRANTS AND LOANS TO SUPPORT THE STATEWIDE CREATION AND PRESERVATION OF AFFORDABLE HOUSING STOCK THROUGH:

- (a) NEW CONSTRUCTION;
- (b) ACQUISITION OF REAL PROPERTY;
- (c) PREDEVELOPMENT;
- (d) DEFRAYING COSTS OF COMPLIANCE WITH LOCAL ORDINANCES;
- (e) BUILDING REHABILITATION;
- (f) ASSISTANCE WITH DOWN PAYMENTS AND CLOSING COSTS;
- (g) ENERGY EFFICIENCY IMPROVEMENTS;
- (h) ACCESSIBILITY MODIFICATIONS AND CONSTRUCTION; AND
- (i) FORECLOSURE AND HOMELESSNESS PREVENTION.

(3) THE FUND ADMINISTRATOR SHALL CONDUCT PUBLIC HEARINGS AND COMPLETE NEEDS ASSESSMENTS TO DETERMINE THE ANNUAL FUNDING PRIORITIES FOR THE ALLOCATION OF MONEYS PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION. THE FUND ADMINISTRATOR SHALL BE AUTHORIZED TO AMEND THE ANNUAL FUNDING PRIORITIES

WITHOUT PUBLIC HEARING AFTER THE OCCURRENCE OF ONE OR MORE NATURAL DISASTERS THAT CREATE NEW NEEDS FOR AFFORDABLE HOUSING.

(4) (a) THE MONEYS IN THE COLORADO HOUSING INVESTMENT FUND SHALL BE ALLOCATED AS FOLLOWS:

(I) FORTY PERCENT OF THE MONEYS IN THE FUND SHALL BE AVAILABLE ON A COMPETITIVE BASIS TO ANY LOCAL HOUSING AUTHORITY, PUBLIC NONPROFIT CORPORATION, PRIVATE FOR-PROFIT OR NONPROFIT CORPORATION, LOCAL GOVERNMENT, OR SPECIAL DISTRICT. MONEYS THAT ARE MADE AVAILABLE TO SUCH ENTITIES AND ARE NOT ENTIRELY OBLIGATED IN THE FISCAL YEAR IN WHICH THEY WERE RECEIVED MAY BE CARRIED FORWARD AND OBLIGATED IN THE NEXT FISCAL YEAR. MONEYS MADE AVAILABLE THROUGH THE STATEWIDE ALLOCATION SHALL BE OBLIGATED IN ACCORDANCE WITH ANNUAL FUNDING PRIORITIES ESTABLISHED BY THE FUND ADMINISTRATOR PURSUANT TO SECTION 3 (3) OF THIS ARTICLE. PAYMENT OF PRINCIPAL AND INTEREST ON ANY LOAN MADE FROM MONEYS ALLOCATED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE DEPOSITED IN THE COLORADO HOUSING INVESTMENT FUND; AND

(II) SIXTY PERCENT OF THE MONEYS IN THE FUND SHALL BE AVAILABLE TO LOCAL GOVERNMENTS FOR DISTRIBUTION TO ANY LOCAL HOUSING AUTHORITY, PUBLIC NONPROFIT CORPORATION, PRIVATE FOR-PROFIT OR NONPROFIT CORPORATION, LOCAL GOVERNMENT, OR SPECIAL DISTRICT. MONEYS SHALL BE MADE AVAILABLE BY APPLICATION TO THE FUND ADMINISTRATOR FOR USE IN ACCORDANCE WITH A LOCAL OR REGIONAL HOUSING PLAN BASED ON LOCAL OR REGIONAL NEEDS ASSESSMENTS. PAYMENT OF PRINCIPAL AND INTEREST ON ANY LOAN MADE FROM MONEYS ALLOCATED PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE DEPOSITED WITH THE LOCAL GOVERNMENT THAT DISTRIBUTED THE LOAN FOR REDISTRIBUTION IN ACCORDANCE WITH A LOCAL OR REGIONAL HOUSING PLAN BASED ON LOCAL OR REGIONAL NEEDS ASSESSMENTS AS DETERMINED BY THE LOCAL GOVERNMENT.

(b) NOT LESS THAN FIFTY PERCENT OF THE MONEYS MADE AVAILABLE FOR LOANS OR GRANTS FROM THE FUND IN A FISCAL YEAR SHALL BENEFIT VERY LOW-INCOME HOUSEHOLDS.

(c) ANY MONEYS DISTRIBUTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION NOT EXPENDED WITHIN THREE YEARS OF THE DATE OF APPROVAL OF SUCH DISTRIBUTION SHALL REVERT TO THE COLORADO HOUSING INVESTMENT FUND. IN THE YEAR OF A REVERSION, SUCH MONEYS SHALL BE ALLOCATED AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION.

Section 4. Revenue for Colorado housing investment fund – real estate transfer tax.

(1) NOTWITHSTANDING SECTION 20 (8) (a) OF ARTICLE X OF THIS CONSTITUTION, AND IN ADDITION TO ANY DOCUMENTARY FEE PROVIDED BY LAW, ON AND AFTER JULY 1, 2009, WHEN THE TOTAL CONSIDERATION PAID BY THE PURCHASER, INCLUSIVE OF THE AMOUNT OF ANY LIEN OR ENCUMBRANCE AGAINST THE REAL PROPERTY GRANTED OR CONVEYED AND ALL CHARGES AND EXPENSES REQUIRED TO BE PAID FOR THE MAKING OF SUCH GRANT OR CONVEYANCE, EXCEEDS FIVE HUNDRED DOLLARS, A REAL ESTATE TRANSFER TAX SHALL BE IMPOSED AT THE RATE OF FOUR CENTS FOR EACH ONE HUNDRED DOLLARS, OR MAJOR FRACTION THEREOF, OF CONSIDERATION PAID FOR THE REAL PROPERTY. ALL REVENUE FROM THE REAL ESTATE TRANSFER TAX IMPOSED BY THIS SECTION SHALL BE TRANSFERRED INTO THE COLORADO HOUSING INVESTMENT FUND.

(2) WITH REGARD TO THE STATE AND ANY DISTRICT THAT COLLECTS OR SPENDS THE REVENUE GENERATED PURSUANT TO THIS SECTION, ALL SUCH PROCEEDS SHALL BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE AND SHALL NOT BE CONSTRAINED BY ANY LIMITATION CONTAINED IN SECTION 20 OF ARTICLE X OF THIS CONSTITUTION OR ANY OTHER LIMIT ON REVENUE OR SPENDING UNDER COLORADO LAW.

Section 5. Authority of general assembly. THE GENERAL ASSEMBLY SHALL ENACT ON OR BEFORE JUNE 30, 2009 LEGISLATION AS NECESSARY TO FURTHER THE PURPOSE OF THIS ARTICLE, INCLUDING BUT, NOT LIMITED TO, ESTABLISHING A MAXIMUM PERCENTAGE OF THE COLORADO HOUSING INVESTMENT FUND THAT CAN BE SPENT ON ADMINISTRATION, DESIGNATING REQUIRED REPORTS BY LOCAL GOVERNMENTS AND THE FUND ADMINISTRATOR CONCERNING THE USES AND EFFECTS OF MONEYS RECEIVED FROM THE FUND, ESTABLISHING FORMULAS FOR ALLOCATING MONEYS FROM THE FUND TO DESIGNATED CLASSES OF LOCAL GOVERNMENTS, AND ESTABLISHING THE MEANS FOR THE COUNTIES' COLLECTION OF REVENUE AS PROVIDED IN SECTION 4 OF THIS ARTICLE AND ITS TIMELY TRANSMISSION TO THE FUND.

Section 6. Effective date. SECTIONS 5 AND 6 OF THIS ARTICLE SHALL TAKE EFFECT ON JANUARY 14, 2009. SECTIONS 1, 2, 3, AND 4 OF THIS ARTICLE SHALL TAKE EFFECT ON JULY 1, 2009.

Ballot Title Setting Board

Proposed Initiative 2007-2008 #103¹

The title as designated and fixed by the Board is as follows:

STATE TAXES SHALL BE INCREASED \$38.0 MILLION ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION CONCERNING THE CREATION OF A REAL ESTATE TRANSFER TAX TO FUND AFFORDABLE HOUSING PROGRAMS, AND, IN CONNECTION THEREWITH, COMMENCING JULY 1, 2009, IMPOSING THE TRANSFER TAX AT THE RATE OF FOUR CENTS FOR EACH \$100 PAID IN CERTAIN REAL PROPERTY TRANSACTIONS; CREATING A COLORADO HOUSING INVESTMENT FUND TO WHICH TRANSFER TAX REVENUES ARE CREDITED; REQUIRING MONEYS IN THE FUND TO BE USED FOR HOUSING PROGRAMS RELATING TO CONSTRUCTION, REAL PROPERTY ACQUISITION, PREDEVELOPMENT, ORDINANCE COMPLIANCE COSTS, BUILDING REHABILITATION, ASSISTANCE WITH PURCHASE COSTS, ENERGY EFFICIENCY IMPROVEMENTS, ACCESSIBILITY MODIFICATIONS AND CONSTRUCTION, AND FORECLOSURE AND HOMELESSNESS PREVENTION; AND EXEMPTING REVENUES FROM THE TRANSFER TAX FROM STATE AND LOCAL GOVERNMENT REVENUE AND SPENDING LIMITS.

The ballot title and submission clause as designated and fixed by the Board is as follows:

SHALL STATE TAXES BE INCREASED \$38.0 MILLION ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION CONCERNING THE CREATION OF A REAL ESTATE TRANSFER TAX TO FUND AFFORDABLE HOUSING PROGRAMS, AND, IN CONNECTION THEREWITH, COMMENCING JULY 1, 2009, IMPOSING THE TRANSFER TAX AT THE RATE OF FOUR CENTS FOR EACH \$100 PAID IN CERTAIN REAL PROPERTY TRANSACTIONS; CREATING A COLORADO HOUSING INVESTMENT FUND TO WHICH TRANSFER TAX REVENUES ARE CREDITED; REQUIRING MONEYS IN THE FUND TO BE USED FOR HOUSING PROGRAMS RELATING TO CONSTRUCTION, REAL PROPERTY ACQUISITION, PREDEVELOPMENT, ORDINANCE COMPLIANCE COSTS, BUILDING REHABILITATION, ASSISTANCE WITH PURCHASE COSTS, ENERGY EFFICIENCY IMPROVEMENTS, ACCESSIBILITY MODIFICATIONS AND CONSTRUCTION, AND FORECLOSURE AND HOMELESSNESS PREVENTION; AND EXEMPTING REVENUES FROM THE TRANSFER TAX FROM STATE AND LOCAL GOVERNMENT REVENUE AND SPENDING LIMITS?

Hearing May 21, 2008:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 1:26 p.m.

Hearing May 29, 2008:

Motions for Rehearing granted in part to the extent Board amended titles; denied in all other respects.

Hearing adjourned 4:15 p.m.

¹ Unofficially captioned "Colorado Housing Investment Fund" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.